

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

**'An Act To Conform the Maine Tax Laws to
the United States Internal Revenue Code'**

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 36 MRSA §5122, sub-§1, ¶N, as amended by PL 2007, c. 240, Pt. CCC, §2 and affected by §4, is further amended to read:

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

(1) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;

(2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and

(3) For taxable years beginning on or after January 1, 2003 but before January 1, 2008, the increase in aggregate cost under Section 179 of the Code arising from amendments to the Code applicable to tax years beginning on or after January 1, 2003;

Sec. 2. 36 MRSA §5122, sub-§1, ¶X, as amended by PL 2007, c. 539, Pt. CCC, §2, is further amended to read:

X. An amount equal to the taxpayer's federal deduction relating to income attributable to domestic production activities claimed in accordance with Section 102 of the federal American Jobs Creation Act of 2004, Public Law 108-357; and

Sec. 3. 36 MRSA §5122, sub-§1, ¶Y, as amended by PL 2007, c. 539, Pt. CCC, §3, is further amended to read:

Y. Any amount of allowable deduction claimed for federal purposes in accordance with the election under Section 642(g) of the Code that is also used to determine the taxable estate for purposes of calculating the Maine estate tax under chapter 575;

Sec. 4. 36 MRSA §5122, sub-§1, ¶Z, as enacted by PL 2007, c. 539, Pt. CCC, §4, is repealed.

Sec. 5. 36 MRSA §5122, sub-§1, ¶AA, as enacted by PL 2007, c. 539, Pt. CCC, §5, is repealed.

Sec. 6. 36 MRSA §5122, sub-§2, ¶Y, as amended by PL 2007, c. 539, Pt. CCC, §6, is further amended to read:

Y. The portion of contributions to a qualified tuition program established under Section 529 of the Code up to \$250 per designated beneficiary. This deduction may not be claimed on returns when federal adjusted gross income exceeds \$100,000 for returns with a filing status of single or married filing separately or \$200,000 for returns with a filing status of married joint or head of household; and

Sec. 7. 36 MRSA §5122, sub-§2, ¶Z, as amended by PL 2007, c. 539, Pt. CCC, §7, is further amended to read:

Z. For income tax years beginning on or after January 1, 2006, to the extent included in federal adjusted gross income and not otherwise removed from Maine taxable income, an amount equal to the total of capital gains and ordinary income resulting from depreciation recapture determined in accordance with the Code, Sections 1245 and 1250 that is realized upon the sale of property certified as multifamily affordable housing property by the Maine State Housing Authority in accordance with Title 30-A, section 4722, subsection 1, paragraph AA; and.

Sec. 8. 36 MRSA §5122, sub-§2, ¶AA, as enacted by PL 2007, c. 539, Pt. CCC, §8, is repealed.

Sec. 9. 36 MRSA §5125, sub-§3, ¶D, as amended by PL 2007, c. 539, Pt. CCC, §9, is further amended to read:

D. Reduced by any amount attributable to interest or expenses incurred in the production of income exempt from tax under this Part; and

Sec. 10. 36 MRSA §5125, sub-§3, ¶E, as amended by PL 2007, c. 539, Pt. CCC, §10, is further amended to read:

E. Reduced by the amount attributable to any contribution that qualified for and was actually utilized as a credit under section 5216-C; and.

Sec. 11. 36 MRSA §5125, sub-§3, ¶F, as enacted by PL 2007, c. 539, Pt. CCC, §11, is repealed.

Sec. 12. 36 MRSA §5164, sub-§1, as amended by PL 2007, c. 539, Pt. CCC, §12, is further amended to read:

1. Fiduciary adjustment defined. The fiduciary adjustment is the net amount of the modifications described in section 5122, including subsection 3 if the estate or trust is a beneficiary of another estate or trust, which relates to items of income or deduction of an estate or trust. Income taxes imposed by this State or any other taxing jurisdiction, ~~mortgage insurance premiums paid or accrued on or after January 1, 2008 and claimed as a deduction pursuant to the Code, Section 163(h)(3)(E) and~~ interest or expenses incurred in the production of income exempt from tax under this Part deducted in

arriving at federal taxable income must be added back to the fiduciary adjustment. Interest or expenses incurred in the production of income taxable under this Part but exempt from federal income tax must be subtracted from the fiduciary adjustment.

Sec. 13. 36 MRSA §5200-A, sub-§1, ¶N, as amended by PL 2007, c. 240, Pt. CCC, §3 and affected by §4, is further amended to read:

N. With respect to property placed in service during the taxable year, an amount equal to the net increase in depreciation or expensing attributable to:

(1) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 30% bonus depreciation deduction claimed by the taxpayer pursuant to Section 101 of the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147 with respect to property placed in service during the taxable year;

(2) For taxable years beginning on or after January 1, 2002 but prior to January 1, 2006, a 50% bonus depreciation deduction claimed by the taxpayer pursuant to Section 201 of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, Public Law 108-27 with respect to property placed in service during the taxable year; and

(3) For taxable years beginning on or after January 1, 2003 but before January 1, 2008, the increase in aggregate cost under Section 179 of the Code arising from amendments to the Code applicable to tax years beginning on or after January 1, 2003;

Sec. 14. 36 MRSA §5200-A, sub-§1, ¶P, as amended by PL 2007, c. 539, Pt. CCC, §13, is further amended to read:

P. The amount of the loan repayment included in the credit base of the recruitment credit under section 5219-V to the extent that the contribution has been used to adjust federal taxable income; and

Sec. 15. 36 MRSA §5200-A, sub-§1, ¶S, as amended by PL 2007, c. 539, Pt. CCC, §14, is further amended to read:

S. An amount equal to the taxpayer's federal deduction relating to income attributable to domestic production activities claimed in accordance with Section 102 of the federal American Jobs Creation Act of 2004, Public Law 108-357; and.

Sec. 16. 36 MRSA §5200-A, sub-§1, ¶T, as enacted by PL 2007, c. 539, Pt. CCC, §15, is repealed.

Sec. 17. 36 MRSA §5200-A, sub-§2, ¶P, as amended by PL 2007, c. 539, Pt. CCC, §16, is further amended to read:

P. For income tax years beginning on or after January 1, 2015, the gain attributable to the sale of sustainably managed, eligible timberlands as calculated pursuant to this paragraph.

(1) As used in this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Commercial harvesting" or "commercially harvested" means the harvesting of forest products that have commercial value.

(b) "Eligible timberlands" means land of at least 10 acres located in the State and used primarily for the growth of trees to be commercially harvested. Land that would otherwise be included within this definition may not be excluded because of:

(i) Use of the land for multiple public recreation activities;

(ii) Statutory or governmental restrictions that prevent commercial harvesting of trees or require a primary use of the land other than commercial harvesting;

(iii) Deed restrictions, restrictive covenants or organizational charters that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and that were effective prior to January 1, 1982; or

(iv) Past or present multiple use for mineral exploration.

(c) "Forest products that have commercial value" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.

(d) "Sustainably managed" means:

(i) A forest management and harvest plan, as defined in section 573, subsection 3-A, has been prepared for the eligible timberlands and has been in effect for the entire time period used to compute the amount of the subtraction modification under this paragraph; and

(ii) The taxpayer has received a written statement from a licensed forester certifying that, as of the time of the sale, the eligible timberlands have been managed in accordance with the plan under subdivision (i) during that period.

(2) To the extent included in the taxpayer's taxable income under the laws of the United States, the taxable income of the taxpayer under the laws of the United States must be decreased by:

(a) For eligible timberlands held by the taxpayer for at least a 10-year period beginning on or after January 1, 2005 but less than an 11-year period beginning on or after January 1, 2005, $1/15$ of the gain recognized on the sale of the eligible timberlands;

(b) For eligible timberlands held by the taxpayer for at least an 11-year period beginning on or after January 1, 2005 but less than a 12-year period beginning on or after January 1, 2005, $2/15$ of the gain recognized on the sale of the eligible timberlands;

(c) For eligible timberlands held by the taxpayer for at least a 12-year period beginning on or after January 1, 2005 but less than a 13-year period beginning on or after January 1, 2005, $1/5$ of the gain recognized on the sale of the eligible timberlands;

(d) For eligible timberlands held by the taxpayer for at least a 13-year period beginning on or after January 1, 2005 but less than a 14-year period beginning on or after January 1, 2005, $4/15$ of the gain recognized on the sale of the eligible timberlands;

(e) For eligible timberlands held by the taxpayer for at least a 14-year period beginning on or after January 1, 2005 but less than a 15-year period beginning on or after January 1, 2005, $1/3$ of the gain recognized on the sale of the eligible timberlands;

(f) For eligible timberlands held by the taxpayer for at least a 15-year period beginning on or after January 1, 2005 but less than a 16-year period beginning on or after January 1, 2005, $2/5$ of the gain recognized on the sale of the eligible timberlands;

(g) For eligible timberlands held by the taxpayer for at least a 16-year period beginning on or after January 1, 2005 but less than a 17-year period beginning on or after January 1, 2005, $7/15$ of the gain recognized on the sale of the eligible timberlands;

(h) For eligible timberlands held by the taxpayer for at least a 17-year period beginning on or after January 1, 2005 but less than an 18-year period beginning on or after January 1, 2005, $8/15$ of the gain recognized on the sale of the eligible timberlands;

(i) For eligible timberlands held by the taxpayer for at least an 18-year period beginning on or after January 1, 2005 but less than a 19-year period beginning on or after January 1, 2005, $3/5$ of the gain recognized on the sale of the eligible timberlands;

- (j) For eligible timberlands held by the taxpayer for at least a 19-year period beginning on or after January 1, 2005 but less than a 20-year period beginning on or after January 1, 2005, 2/3 of the gain recognized on the sale of the eligible timberlands;
- (k) For eligible timberlands held by the taxpayer for at least a 20-year period beginning on or after January 1, 2005 but less than a 21-year period beginning on or after January 1, 2005, 11/15 of the gain recognized on the sale of the eligible timberlands;
- (l) For eligible timberlands held by the taxpayer for at least a 21-year period beginning on or after January 1, 2005 but less than a 22-year period beginning on or after January 1, 2005, 4/5 of the gain recognized on the sale of the eligible timberlands;
- (m) For eligible timberlands held by the taxpayer for at least a 22-year period beginning on or after January 1, 2005 but less than a 23-year period beginning on or after January 1, 2005, 13/15 of the gain recognized on the sale of the eligible timberlands;
- (n) For eligible timberlands held by the taxpayer for at least a 23-year period beginning on or after January 1, 2005 but less than a 24-year period beginning on or after January 1, 2005, 14/15 of the gain recognized on the sale of the eligible timberlands; or
- (o) For eligible timberlands held by the taxpayer for at least a 24-year period beginning on or after January 1, 2005, all of the gain recognized on the sale of the eligible timberlands.

(3) Taxpayers claiming this credit must attach a sworn statement from a forester licensed pursuant to Title 32, chapter 76 that the timberlands for which the credit is claimed have been managed sustainably. For the purposes of this subparagraph, "sustainably" means that the timberlands for which the credit is claimed have been managed to protect soil productivity and to maintain or improve stand productivity and timber quality; known occurrences of threatened or endangered species and rare or exemplary natural communities; significant wildlife habitat and essential wildlife habitat; and water quality, wetlands and riparian zones.

Upon request of the State Tax Assessor, the Director of the Bureau of Forestry within the Department of Conservation may provide assistance in determining whether timberlands for which the credit is claimed have been managed sustainably. When assistance is requested under this subparagraph, the director or the director's designee may enter and examine the timberlands for the purpose of determining whether the timberlands have been managed sustainably.

In the case of timberlands owned by an entity that is treated as a pass-through entity for income tax purposes, the land must be treated as eligible timberland if ownership and use of the land by the pass-through entity satisfies the requirements of this paragraph. If the owner of the eligible timberlands is an S corporation, the taxpayer must subtract the owner's pro rata share of the gain. If the owner of the timberlands is a partnership or limited liability company taxed as a partnership, the taxpayer must subtract the taxpayer's distributive share of the gain, subject to the percentage limitations provided in this paragraph.

This modification may not reduce Maine taxable income to less than zero. To the extent this modification results in Maine taxable income that is less than zero for the taxable year, the excess negative modification amount may be carried forward and applied as a subtraction modification for up to 10 taxable years. The entire amount of the excess negative modification must be carried to the earliest of the taxable years to which, by reason of this subsection, the negative modification may be carried and then to each of the other taxable years to the extent the unused negative modification is not used for a prior taxable year. Earlier carry-forward modifications must be used before newer modifications generated in later years; and

Sec. 18. 36 MRSA §5200-A, sub-§2, ¶Q, as amended by PL 2007, c. 539, Pt. CCC, §17, is further amended to read:

Q. For income tax years beginning on or after January 1, 2006, to the extent included in federal taxable income and not otherwise removed from Maine taxable income, an amount equal to the total of capital gains and ordinary income resulting from depreciation recapture determined in accordance with the Code, Sections 1245 and 1250 that is realized upon the sale of property certified as multifamily affordable housing property by the Maine State Housing Authority in accordance with Title 30-A, section 4722, subsection 1, paragraph AA; and.

Sec. 19. 36 MRSA §5200-A, sub-§2, ¶R, as enacted by PL 2007, c. 539, Pt. CCC, §18, is repealed.

Sec. 20. Application. This Act applies to tax years beginning on or after January 1, 2007 and to any prior years as specifically provided by the United States Internal Revenue Code of 1986 except that those sections that amend the Maine Revised Statutes, Title 36, section 5122, subsection 1, paragraph N and section 5200-A, subsection 1, paragraph N apply to tax years beginning on or after January 1, 2008.'

SUMMARY

This amendment provides for full conformity with the United States Internal Revenue Code through February 13, 2008 and includes provisions relating to the expensing of business equipment under Section 179 of the Code.